

**PUBLIC NOTICE**  
**INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION**  
**CITY OF SAN JOSÉ, CALIFORNIA**

**Sewer Interceptor Phase VIA Public Project, File No. PP10-160.** Approval of the sewer project would result in the installation of new 72- and 84-inch diameter reinforced concrete pipe (RCP) sewer interceptor pipeline and new junction box within the existing public right-of-way of North 4th Street, Commercial Street and under Highway 101 to connect to the existing sewer structures in Zanker Road. The proposed pipeline will run from the intersection of N. Fifth Street and Commercial Street, westerly along Commercial Street to its intersection with N. Fourth Street, then along N. Fourth Street N. northward and under Highway 101, for an approximate length of 4,900 LF. The project is located in Council Districts: 3 and 4.

California State Law requires the City of San José to conduct environmental review for all pending projects. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. Based on an initial study, the Director of Planning, Building & Code Enforcement has concluded that the project described above will not have a significant effect on the environment. The project location does contain a listed toxic site.


The purpose of this notice is to inform the public of the San Jose City Council's intent to adopt a Mitigated Negative Declaration for the proposed project on or after June 13, 2011, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **May 13, 2011** and ends on **June 13, 2011**. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance.

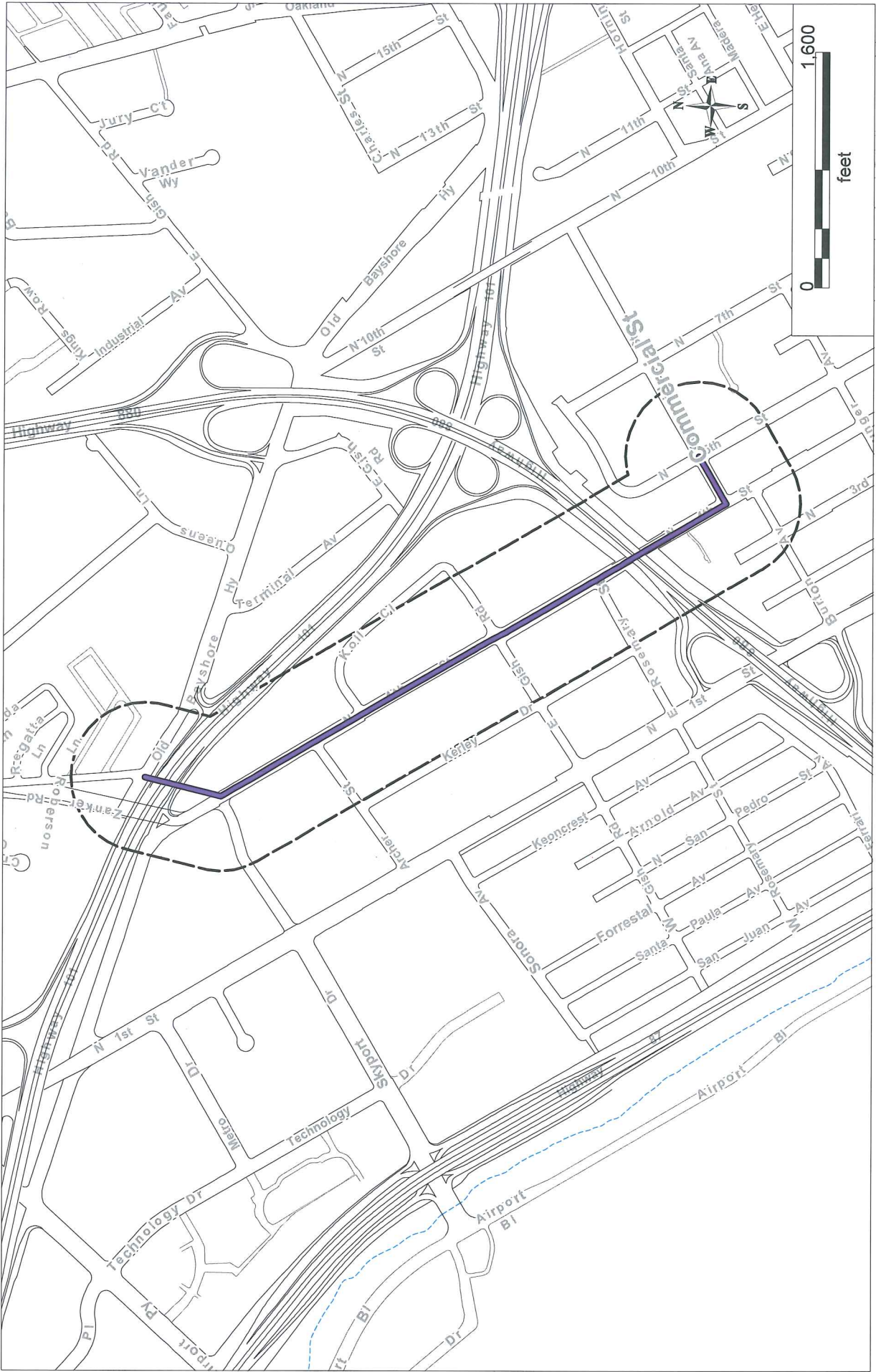
The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, the Joyce Ellington Branch Library, 491 East Empire Street, San José, CA 95112, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>.

For additional information, please call Janis Moore at (408) 535-7815.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on: May 13, 2011

  
Deputy



Prepared by the Department of Planning,  
Building, and Code Enforcement  
4/27/2011

File No: PP10-160  
District: 3

Noticing Radius: 500 Feet



**DRAFT**  
**MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Sewer Interceptor Phase VIA Public Project

**PROJECT FILE NUMBER:** PP10-160

**PROJECT DESCRIPTION:** Approval of the Sewer Interceptor Phase VIA Public Project will allow the installation of new 72- and 84-inch diameter reinforced concrete pipe (RCP) sewer interceptor pipeline and new junction box within the existing public right-of-way of North 4th Street, Commercial Street and under Highway 101 to connect to the existing sewer structures in Zanker Road.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** From the intersection of N. Fifth Street and Commercial Street, westerly along Commercial Street to its intersection with N. Fourth Street, then along N. Fourth Street N. northward and under Highway 101, for an approximate length of 4,900 LF.

**COUNCIL DISTRICT:** 3 and 4

**APPLICANT CONTACT INFORMATION:** City of San Jose, Department of Public Works, Transportation and Hydraulic Services Division (Attn: Alan Kam, Associate Engineer; Tel: 408-793-4150)

**FINDING:** The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of the draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

- I. **AESTHETICS.** The project will not result in significant aesthetic impacts, therefore no mitigation is required.
- II. **AGRICULTURE AND FOREST RESOURCES.** The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.
- III. **AIR QUALITY.** The project will not have significant impacts on air quality; however, construction-generated dust, if uncontrolled, could result in a significant air quality impact.
  - A. The proposed project includes the following mitigation measures that can reduce construction impacts to a less than significant level. BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices shall be implemented during construction of the proposed project.

1. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material offsite shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
5. All vehicle speeds on unpaved roads shall be limited to 15 mph.
6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
7. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
8. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
9. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
10. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
11. Vegetative ground cover (e.g. fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
12. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
13. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
14. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
15. Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
16. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
17. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

**IV. BIOLOGICAL RESOURCES.** The project could result in significant environmental impacts to biological resources.

- A. Construction disturbance of or near nests can result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or loss of reproductive effort is considered a taking by the CDFG. The project proposes to implement the following mitigation measures to reduce the impact to nesting birds to a less than significant level.



1. Pre-construction/Pre-disturbance Surveys. If construction is to occur during the breeding season (February 1 through August 31), pre-construction surveys shall be conducted by a qualified ornithologist no more than 7 days prior to the initiation of construction in any given area. Pre-construction surveys will identify active nests of species protected by the MBTA and State Code.
2. Avoid the Nesting Season. If possible, potential nesting substrates (e.g., bushes, trees, grass, buildings, burrows) to be removed by the project should be removed between September 1 and January 31, to avoid the nesting season.
3. Buffer Zones. If an active nest is found and is greater than half completed, a qualified ornithologist, in consultation with the CDFG, will determine the extent of a construction-free buffer zone to be established around the nest, until nesting is complete. Typical buffer widths are 250 feet for a nesting raptor and 100 feet for other species. The establishment of construction-free buffer zones will ensure that no active nests of species protected by the MBTA and California Fish and Game Code will be disturbed by construction.

**V. CULTURAL RESOURCES.** The project will not have a significant impact on cultural resources, therefore no mitigation is required.

**VI. GEOLOGY AND SOILS.** The project will not have a significant impact on due to geology and soils, therefore no mitigation is required.

**VII. GREENHOUSE GAS EMISSIONS.** The project will not result in a significant climate change impact due to the emission of greenhouse gases, therefore no mitigation is required.

**VIII. HAZARDS AND HAZARDOUS MATERIALS.** The project could result in significant hazards and hazardous materials impacts.

A. The project will include the following mitigation measures upon completion of final design and prior to project construction, which would reduce the risks of potential soil or groundwater contamination or residual pesticides and/or herbicides contamination at the site to future construction workers to a less than significant level.

1. Prior to project development, a soil and groundwater investigation shall be completed to determine if residual contaminants of concern (COCs: petroleum hydrocarbons, volatile organic compounds, metals, or agricultural chemicals) are present in the proposed excavated soil. The analytical results will be compared against applicable environmental screening levels for construction workers and hazardous waste criteria. Based on these results, the investigation will provide recommendations regarding soil handling procedures and disposal of affected soils in the project area including the potential reuse of affected soil during project development. Impacted soil deemed for removal shall be disposed of at a licensed facility. If contaminants are present in the soil and/or groundwater, the extent of the impact shall be evaluated to determine if the appropriate regulatory agency (i.e. Regional Water Quality Control Board or Department of Toxic Substances Control) should be contacted and regulatory oversight sought.
2. A site management plan shall be developed to establish management practices for construction worker safety while handling contaminated soil, groundwater, or other materials if encountered during excavation and construction activities.

3. A hazardous materials licensed contractor shall conduct construction earthwork activities with properly trained employees in areas where contaminated soil or ground water are present. Employees conducting earthwork activities at the site must complete a 40-hour training course, including respirator and personal protective equipment training. Each contractor working at the site shall prepare a health and safety plan (HSP) that addresses the safety and health hazards of each phase of site operations that includes the requirements and procedures for employee protection.

B. Excavation of the project alignment could result in exposure of construction workers to soils and groundwater contamination with lead

1. Prior to project development, a soil investigation shall be completed to determine whether ADL has affected soils that will be excavated as part of the proposed project. The investigation for ADL shall be performed in accordance with the Caltrans' *Lead Testing Guidance Procedure* (dated March 16, 2001). The analytical results will be compared against applicable environmental screening levels for construction workers and hazardous waste criteria. Based on analytical results, the investigation will provide recommendations regarding soil handling procedures, management and disposal of affected soils in the project area including the reuse potential of ADL-affected soil during project development. The provisions of a variance granted to Caltrans by the California Department of Toxic Substances Control (DTSC) on September 22, 2000 (or any subsequent variance in effect when the project is constructed) regarding aerially-deposited lead shall be followed, and will reduce this impact to a less than significant level.

**IX. HYDROLOGY AND WATER QUALITY.** The project will not result in a significant hydrology or water quality impact, therefore no mitigation is required.

**X. LAND USE AND PLANNING.** The project will not result in a significant land use or planning impact, therefore no mitigation is required.

**XI. MINERAL RESOURCES.** The project will not have a significant impact on this resource, therefore no mitigation is required.

**XII. NOISE.** The project will not have a significant noise impact, therefore no mitigation is required.

**XIII. POPULATION AND HOUSING.** The project will not have a significant impact on population and housing, therefore no mitigation is required.

**XIV. PUBLIC SERVICES.** The project will not have a significant impact on public services, therefore no mitigation is required.

**XV. RECREATION.** The project will not have a significant impact on this resource, therefore no mitigation is required.

**XVI. TRANSPORTATION / TRAFFIC.** The project will not have a significant traffic impact, therefore no mitigation is required.

**XVII. UTILITIES AND SERVICE SYSTEMS.** The project will not have a significant impact on utilities or service systems, therefore no mitigation is required.

**XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.** The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no mitigation is required.

**PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **June 13, 2011**, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Approved for circulation, from **May 13, 2011** to **June 13, 2011**

A handwritten signature in blue ink, appearing to read "John Danik", is written over a horizontal line.

Deputy